

Louis F. Teran (SBN 249494)
lteran@slclg.com
SLC LAW GROUP
1055 E. Colorado Blvd., Suite #500
Pasadena, CA 91106
Telephone: (818) 484-3217 x200
Facsimile: (866) 665-8877

Attorneys for Defendant
Benjamin D. Cook

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

TOPFIRE LIMITED, et al.,

Plaintiffs,

v.

BENJAMIN D. COOK,

Defendant.

Case No.: 2:23-cv-02503-DAD-JDP

**BENJAMIN D. COOK'S DISCLOSURE
OF ASSERTED CLAIMS AND
INFRINGEMENT CONTENTIONS**

BENJAMIN D. COOK,

Counter-Claimant,

v.

TOPFIRE LIMITED, et al.,

Counter-Defendant

Defendant/Counter-Claimant Benjamin Cook (“Cook”) hereby submits his Disclosure of Asserted Claims and Infringement Contentions.

Cook reserves the right to supplement these infringement contentions, including the list of accused products and services, based upon further discovery. Further, Cook may amend or supplement any of these disclosures and contentions in view of any claim construction ruling(s) issued by the Court or any position taken by Plaintiffs/Counter-Defendants Topfire Limited et al. (“Topfire”) in this action. Cook, therefore, expressly reserves the right to amend or supplement its identification of asserted claims, accused instrumentalities, and priority dates, as well as its claim charts, based on further investigation and discovery.

I. IDENTIFICATION OF INFRINGED CLAIMS

Cook presently contends that Topfire has infringed and continues to infringe claims 1 to 7 of U.S. Patent No. 11,772,539 (“the ‘539 Patent”) based on Cook’s understanding of the information currently available to Cook regarding Topfire’s Accused Product identified below. Cook’s infringement claims are all based on 35 U.S.C. §271(a).

II. IDENTIFICATION OF ACCUSED PRODUCTS

Cook hereby identifies the following Topfire products as “Accused Products” under 35 U.S.C. §271(a) with respect to all the asserted claims:

Amazon.com ASIN: B09NBKXSL

Item title: Upgraded Car Cup Holder Expander Adapter with Offset Adjustable Base, Compatible with Yeti 14/24/36/46oz Rambler, Hydro Flasks 32/40oz, Other Large Bottles Mugs in 3.4"-4.0", 1 Pack

Amazon.com ASIN: B09N8K3H8Y

Item title: Upgraded Car Cup Holder Expander Adapter with Offset Adjustable Base, Compatible with Yeti 14/24/36/46oz Rambler, Hydro Flasks 32/40oz, Other Large Bottles Mugs in 3.4"-4.0", 2 Pack

Amazon.com ASIN: B0BFWJNNRL

Item title: SEVEN SPARTA Cup Holder Phone Mount for Car Cup Holder Expander Adjustable Base with 360° Rotation Cup Phone Holder for Car Compatible with iPhone Samsung Galaxy All Smartphones Upgrade 2-in-1

Amazon.com ASIN: B0CC1XPK1Z

Item Title: Seven Sparta Car Cup Holder Tray, 2 in 1 Car Food Tray Cup Holder Expander Compatible with Yeti, Hydro Flasks, Other Large Bottles Mugs in 3.4"-4.0", Car Travel Accessories for Long Trips

Amazon.com ASIN: B09GLVQZ1Q

Item title: Upgraded Large Cup Holder Expander for Car with Offset Expandable Base Compatible with Yeti Mug10/14oz Yeti Rambler 20/24/26/30/36/46oz Hydro Flasks 32/40oz Other Large Bottles in 3.4"-4" Diameter

Amazon.com ASIN: B0BD56KZ19

Item Title: Master Show 2-in-1 Car Cup Holder Cell Phone Holder, Large Car Cup Holder Expander with Phone Holder, Cell Phone Holder for Car, Compatible with iPhone, Samsung & All Smartphones

These identifications are based on a preliminary understanding of information currently available to Cook, and Cook reserves the right to supplement these identifications as discovery proceeds.

III. CHART IDENTIFYING CLAIM ELEMENTS WITHIN ACCUSED PRODUCTS

Cook hereby provides a chart, attached as **Exhibit A**, that identifies where each limitation of each asserted claim is found in representative proof for the Accused Products. The first column of each chart recites the limitations of the asserted claim verbatim. The second column shows an example of where a corresponding element is found in representative proof for the Accused Products. These identifications are based on a preliminary understanding of information currently available to Cook, and Cook reserves the right to supplement these charts as discovery proceeds.

IV. LITERAL INFRINGEMENT AND INFRINGEMENT UNDER THE DOCTRINE OF EQUIVALENTS

Cook presently contends that Topfire's Accused Products literally infringe claims 1 to 7 of the '539 Patent. Nevertheless, with respect to any claim element or limitation that may be found not to be literally embodied in the Accused Products, Cook contends in the alternative that the Accused Products embody such claim elements or limitations under the

1 doctrine of equivalents and that any claim element or limitation not found to be literally
2 met is equivalently met because any difference between the claim element or limitation
3 and the Accused Products is not a substantial difference. Accordingly, Cook contends that
4 any asserted claim which the Accused Products are not found to be embodied literally is
5 nevertheless embodied by the Accused Products under the doctrine of equivalents under
6 the operative doctrine of equivalents test, e.g., function-way-result or insubstantial
7 differences tests.

8 **V. CLAIM OF PRIORITY TO EARLIER APPLICATION**

9 Cook hereby contends that claims 1 to 7 of the '539 Patent are entitled to priority
10 dates to the following earlier applications: Provisional Application No. 63/146,581 filed
11 on February 6, 2021; and Application No. 17/592,418 filed on February 3, 2022, now Pat.
12 No. 11,660,995.

13 **VI. DISCLOSURE OF COOK'S PRODUCTS THAT PRACTICE THE**
14 **CLAIMED INVENTION**

15 Based on presently available information and current analysis, Cook identifies that
16 following products as products that practice at least one or more of the asserted claims of
17 the '539 Patent: Swigzy car cup holder expander.

18 Cook's response with based on information currently known to Cook and is
19 without prejudice to Cook's right to supplement its response during the course of
20 litigation.

21 **VII. TIMING OF INFRINGEMENT**

22 Based on presently available information and current analysis, Cook alleges that
23 the time of first infringement and start of claimed damages was at least in or around
24 October 2023. The alleged infringement has not stopped so there is no end of claimed
25 damages.

26 Cook's response with based on information currently known to Cook and is
27 without prejudice to Cook's right to supplement its response during the course of
28 litigation.

1 **VIII. WILLFUL INFRINGEMENT**


2 Based on presently available information and current analysis, Cook alleges that
3 Topfire's infringement was willful because it was given actual notice of said infringement
4 on or around October 9, 2023. Despite said actual notice, Topfire continues to infringe.

5 Cook's response with based on information currently known to Cook and is
6 without prejudice to Cook's right to supplement its response during the course of
7 litigation.

8 **IX. DOCUMENT PRODUCTION ACCOMPANYING DISCLOSURE**

9 Cook is serving concurrently herewith the documents with Bates Stamp Nos.
10 COOK-0001 to COOK-0356.

11
12
13
14 DATED: May 7, 2024

15
16 By:  _____

17 Louis F. Teran

18 Attorney for
19 Defendant/Counter-Claimant
20 Benjamin D. Cook
21
22
23
24
25
26
27
28

EXHIBIT A

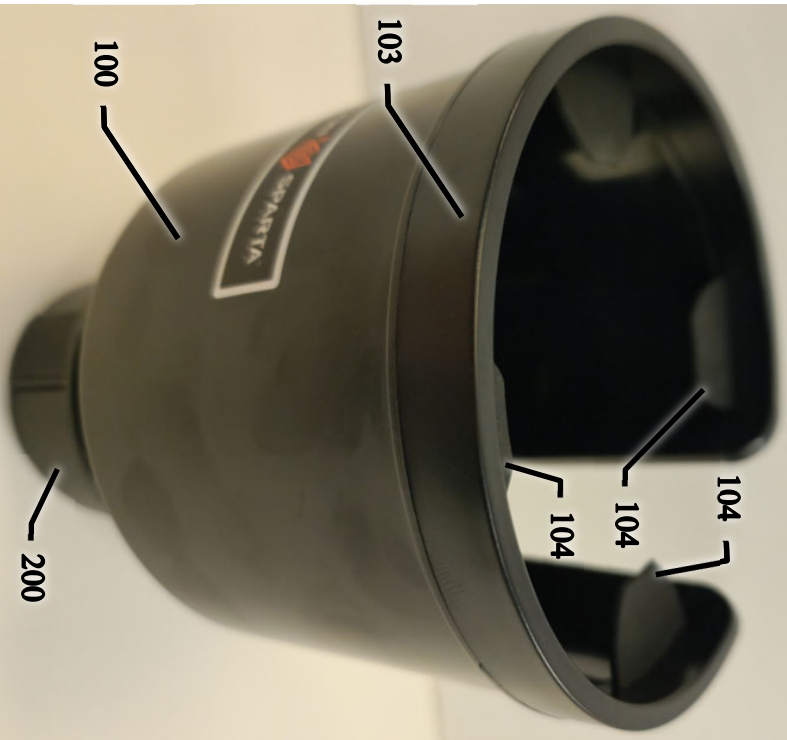
EXHIBIT A		
Topfire Product: Amazon.com ASIN: B09NBKXSSL		
Claim Element	Claim Features	Accused Product
1p	A cupholder adapter configured for use with an existing cupholder on a vehicle, the cupholder adapter comprising:	<i>See the following claimed features.</i>
1a	a cylindrical cupholder [100] having a hollow internal volume;	<u>Image 1a(1)</u> 
1b	a collar [103] attached to a top portion of the cylindrical cupholder [100], wherein the collar [103] includes a plurality of tabs [104] extending perpendicularly into the hollow internal volume;	See <u>Image 1a(1)</u> .

EXHIBIT A
Topfire Product: Amazon.com ASIN: B09NBKXSSL

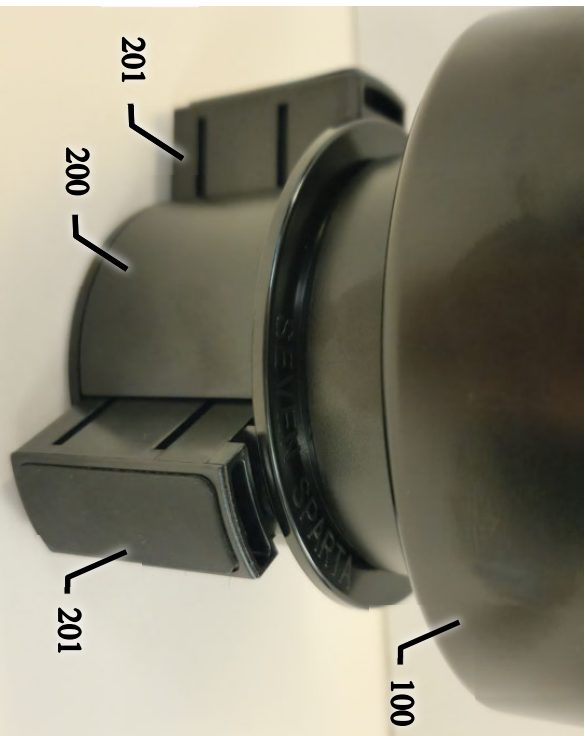
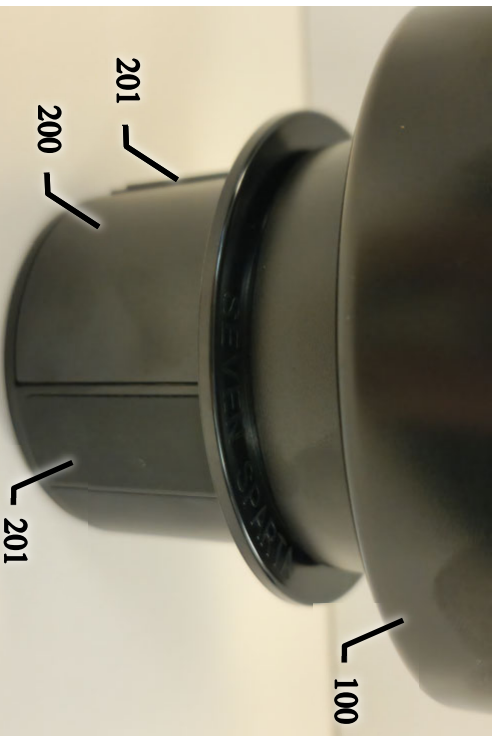
1c	<p>an adapter base [200] coupled to the cylindrical cupholder [100], wherein the adapter base includes a plurality of legs [201] configured to expand [Image 1c(1)] and retract [Image 1c(2)] such that the diameter of the adapter base [200] is configured to expand from a minimum diameter to a maximum diameter;</p>	<p><u>Image 1c(1) – Expanded State</u></p>  <p><u>Image 1c(2) – Retracted State</u></p> 
-----------	---	---

EXHIBIT A
Topfire Product: Amazon.com ASIN: B09NBKXSLL

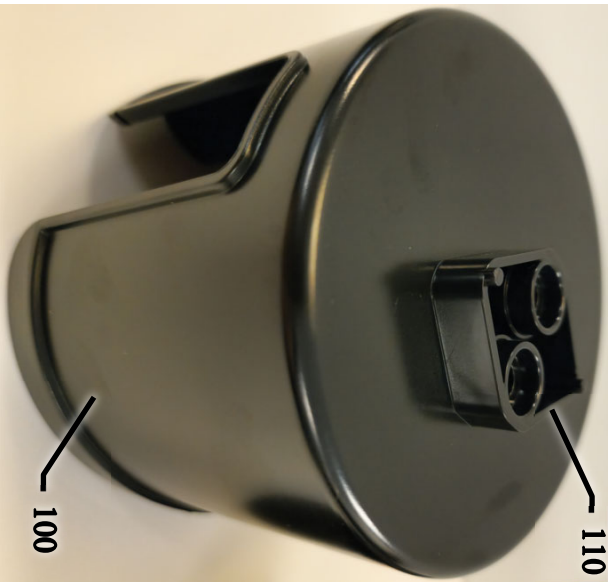
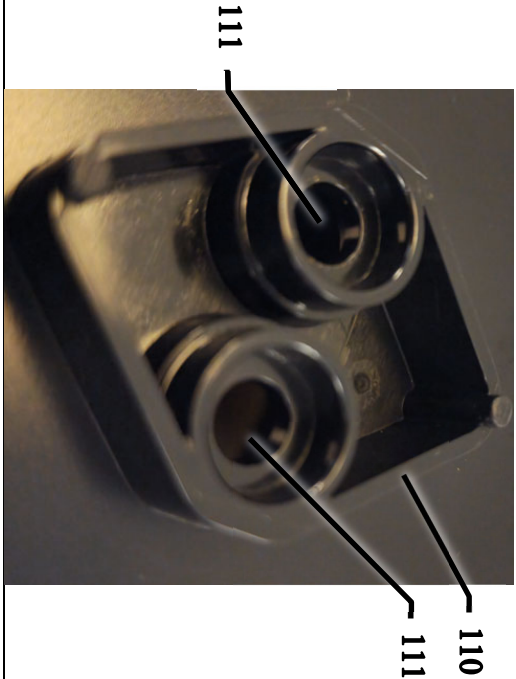
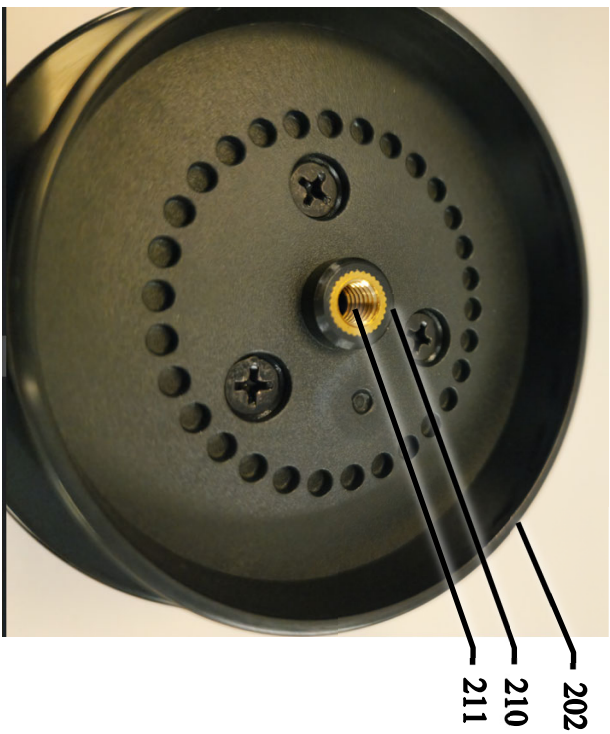
1d	an attachment member [110] positioned on a bottom surface of the cylindrical cupholder [100], wherein the attachment member [110] enables the coupling of the adapter base [200] and the cylindrical cupholder [100]; and,	<p><u>Image 1d(1)</u></p> 
1e	wherein the attachment member [110] comprises a number of mounting holes [111] and the adapter base [200] or a spacer [202] comprises a number of protrusions [210], at least one protrusion [210] of the number of protrusions [210] having a hole [211], wherein a mounting hole [111] of the number of mounting holes [111] is configured to align with the hole [211] such that a fastener [500] can extend through the mounting hole [111] and the hole [211] of the at least one protrusion [210] of the number of protrusions [210].	<p><u>Image 1e(1)</u></p> 

EXHIBIT A
Topfire Product: Amazon.com ASIN: B09NBKXSSL

Image 1e(2)



Images 1e(3) and 1e(4)

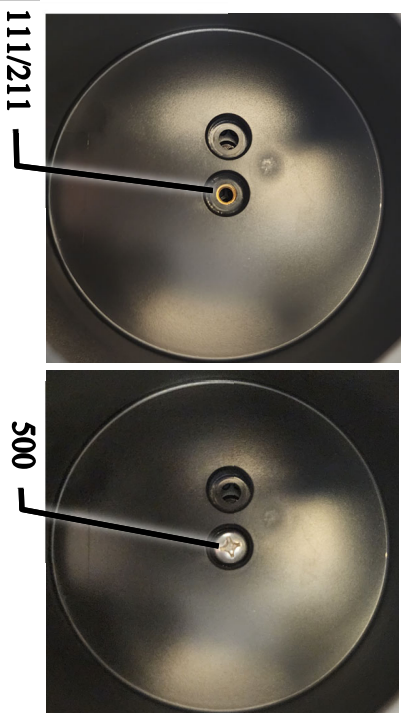


EXHIBIT A
Topfire Product: Amazon.com ASIN: B09NBKXSSL

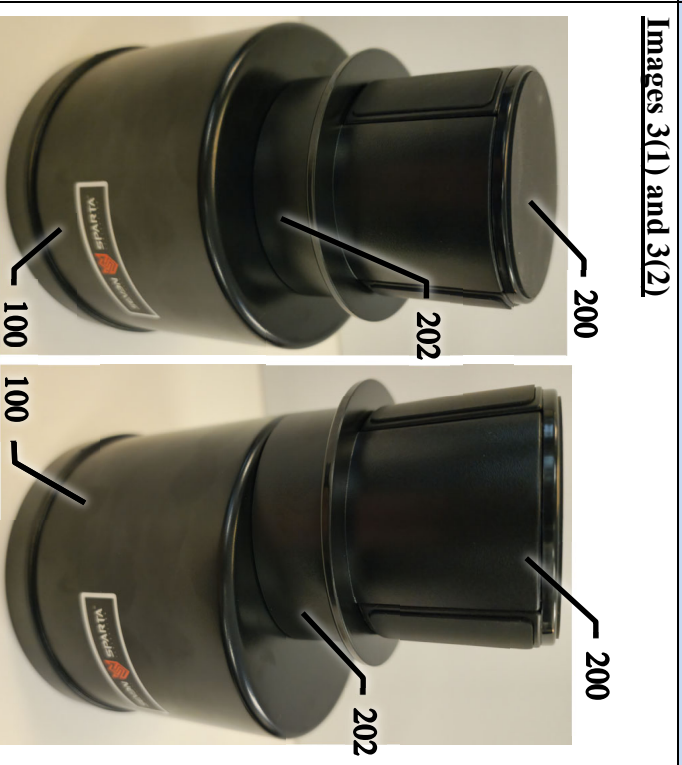
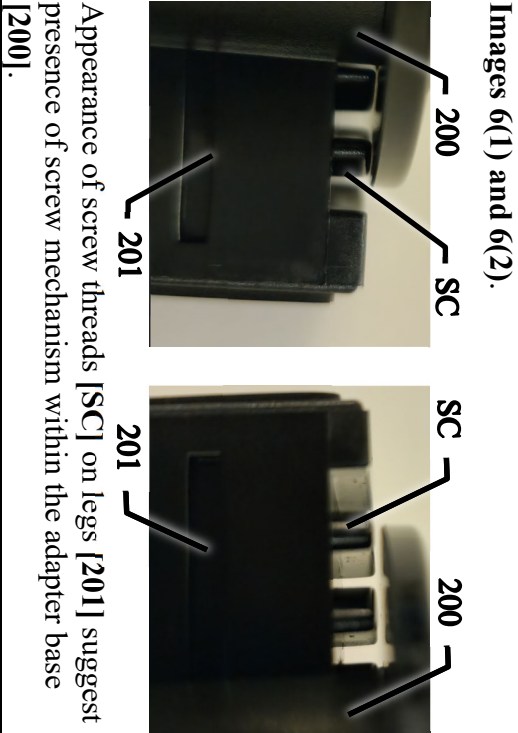
2	The cupholder adapter of claim 1, wherein the plurality of legs [201] are configured to expand and retract via rotation of the cupholder [100].	See Image 1c(1) . Legs 201 expand/retract based on rotation of cupholder 100 relative to base 200.
3	The cupholder adapter of claim 1, wherein the cylindrical cupholder [100] is configured to be coupled to the adapter base [200] in a variety of configurations including at least (a) the cylindrical cupholder's axis is aligned with the adapter base's axis [Image 3(1)]; and (b) the cylindrical cupholder's axis is not aligned with the adapter base's axis [Image 3(2)].	<p><u>Images 3(1) and 3(2)</u></p> 
4	The cupholder adapter of claim 1, wherein the number of mounting holes [111] of the attachment member [110] enable multiple configurations of the cylindrical cupholder [100] in relation to the adapter base [200] including an aligned configuration [Image 3(1)] and off-set configuration [Image 3(2)].	See Images 3(1) and 3(2) .
5	The cupholder adapter of claim 1, further comprising at least one spacer [202] positioned between the cylindrical cupholder [100] and the adapter base [200].	See Images 3(1) and 3(2) .

EXHIBIT A		
Topfire Product: Amazon.com ASIN: B09NBKXSSL		
6	The cupholder adapter of claim 2, wherein a screw gear [203] is provided to enable the movement of the plurality of legs [201] via rotation.	<p>Images 6(1) and 6(2).</p>  <p>Appearance of screw threads [SC] on legs [201] suggest presence of screw mechanism within the adapter base [200].</p>
7	The cupholder adapter of claim 1, wherein the minimum diameter is 2.6 inches and the maximum diameter is 3.8 inches.	<p><i>Not yet able to confirm measurements.</i></p>